

Staff Summary Report



Hearing Officer Hearing Date: 05/01/2012

Agenda Item Number: 6

SUBJECT: This is a public hearing for a request by **AVEDA INSTITUTE** located at 8475 South Emerald Center, Suites 107-113 for one (1) use permit.

DOCUMENT NAME: HOr_AvedaInstitute_050112

PLANNED DEVELOPMENT (0406)

COMMENTS: Hold a public hearing for a request by **AVEDA INSTITUTE (PL120087)** (Mike Withey, Withey-Morris PLC, applicant; Wells Fargo property owner) located at 8475 South Emerald Drive, Suites 107-113 in the RCC, Regional Commercial Center District for:

ZUP12033 – Use Permit to allow a vocational school.

PREPARED BY: Sherri Lesser, Senior Planner (480-350-8486)

REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359)

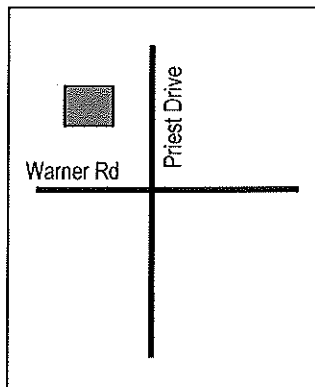
LEGAL REVIEW BY: N/A

DEPARTMENT REVIEW BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359)

FISCAL NOTE: There is no fiscal impact to City funds.

RECOMMENDATION: Staff – Approval, subject to conditions

ADDITIONAL INFO:



The applicant is requesting approval of a vocational school in conjunction with a retail use and salon in the RCC, Regional Commercial Center. They will occupy a 21000 s.f. tenant space; of which, a majority of the floor plan will be devoted to an area for retail and salon services; all classroom areas will be located on the rear interior portion of the suite(s) away from the store front. The traffic generated by the use will be consistent with other businesses within this commercial complex. Staff supports the use permit with the finding that it meets the criteria for approval as identified in the Zoning and Development Code-Use Permits Part 6, Chapter 3, Section 6-308 E. Staff received one telephone inquiry regarding the proposed use. The caller stated concern with use in regard to the allowance of the use as covered in the covenant, code and restrictions (CCR's) for Emerald Center II. To date, no written opposition has been received for this case.

PAGES:

1. List of Attachments
2. Comments;
3. Reasons for Approval; Conditions of Approval; History & Facts; Description; Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)
- 3-5. Letter of Intent
6. Site plan
7. Floor plan
- 8-10. Building Elevations
- 11-12. Introduction letter to notification area from applicant

COMMENTS:

The proposed business will be located in Emerald Center II which is north of Warner Road; east of the I-10 Freeway, across from IKEA; and west of Priest Drive. The tenant space is 21,000 square feet which is approximately half of the 8475 building at the south end of the center. The building orientation aligns west to east and is perpendicular to Emerald Drive. The business hours will be from 8:30 am to 10 pm. Students will arrive at staggered times during the day depending on their full-time or part-time status. The volume of traffic generated by the business will be in character with the surrounding businesses. Functionally, the Aveda Institute will fit well in the center; the operation of the business places an emphasis on the retail and service components of the business. The store front for the business is a retail display area in character with surrounding retail businesses. The full service salon will provide an opportunity for the students to receive hands on training under professional supervision.

Public Input

Staff received a telephone inquiry from a representative of the business association for the center. He stated his objection to the use permit on the grounds that the proposed use is not in compliance with the CCR's for the center. The City does not enforce CCR's and any issues pertaining to compliance with the covenant is a separate civil matter. As of the writing of this report staff has not received any written correspondence regarding this case. In addition to the public notification mailed by the City, this applicant sent their own letter of introduction to all businesses and property owners located within the 300' notification area.

Use Permit

The Zoning and Development Code requires a use permit for vocational schools in the RCC, Regional Commercial Center District. The retail display and salon are permitted uses which do not require the use permit. This use permit request meets all applicable tests in the following manner:

Evaluating the use permit, the proposal appears to pass the use permit test listed below:

- a. Any significant increase in vehicular or pedestrian traffic in adjacent areas;
 - There will be no significant increase in vehicular or pedestrian traffic in adjacent areas. The volume of traffic generated by this use is consistent with other retail uses.
- b. Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;
 - There should be no nuisance created by the business.
- c. Contribution to the deterioration of the neighborhood or to the downgrading of property values which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the City's adopted plans, or General Plan;
 - The proposed development would not contribute to neighborhood deterioration or downgrade property values.
- d. Compatibility with existing surrounding structures and uses;
 - The proposed use appears to be compatible with surrounding structures and uses. The business operation is comparable to surrounding retail uses in their hours of operation, volume of customer traffic and demand on available parking. There is an abundant supply of available parking spaces to accommodate this use and the existing businesses within the center. A majority of the other tenants are furniture retailer which by ordinance and demand requires fewer parking spaces than regular retail.
- e. Adequate control of disruptive behavior both inside and outside the premises, which may create a nuisance to the surrounding area or general public;
 - The proposed use appears to have adequate control of disruptive behavior.

Conclusion

Staff recommends approval of the use permit.

**REASON(S) FOR
APPROVAL:**

1. No apparent nuisance resulting from noise, smoke, odor, dust, vibration, or glare.
2. No apparent hazards to persons or property from possible explosion, contamination, fire or flood.
3. Traffic generated by this use should not be excessive.
4. The use appears to be compatible with the building, site and adjacent property.
5. Approval of the use permit will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or the public welfare in general.

SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.

**CONDITION(S)
OF APPROVAL:**

1. The use permit is valid for Aveda Institute and may be transferable with approval from the Hearing Officer staff. Should the business be sold, the new owners must contact the Hearing Officer staff for review of the business operation.
2. All business signs shall be Development Plan Review approved and permits obtained.
3. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
4. Obtain all necessary clearances and permits for the occupancy from the Building Safety Division.

HISTORY & FACTS:

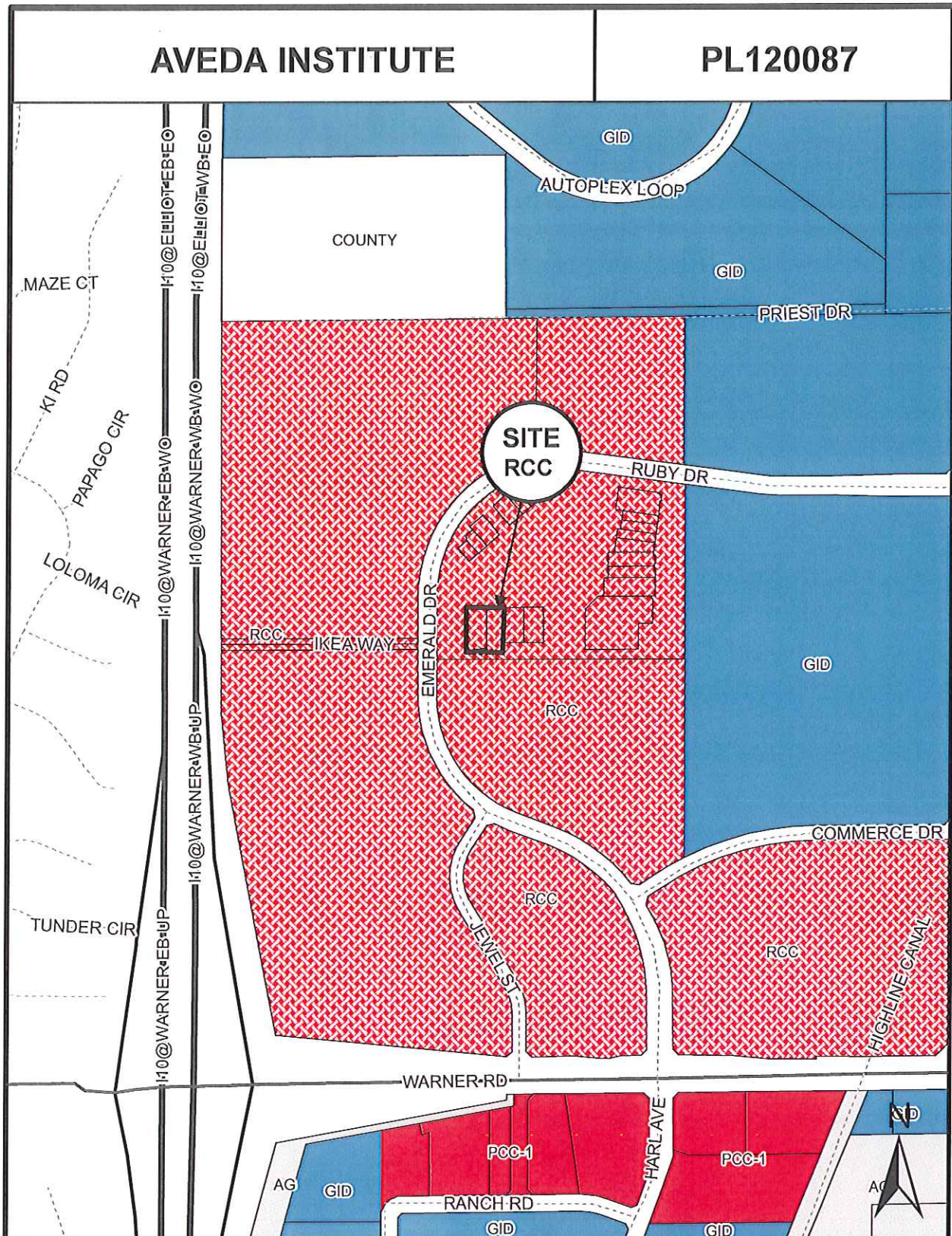
None pertinent to this case.

DESCRIPTION:

Owner – Wells Fargo
Applicant – Mike Withey, Withey-Morris PLC
Existing Zoning – RCC, Regional Commercial Center
Parking Available for Emerald Center II- 497spaces
Parking required for all uses in center-336 spaces
Parking required for this business-70 spaces

**ZONING AND
DEVELOPMENT****CODE REFERENCE:**

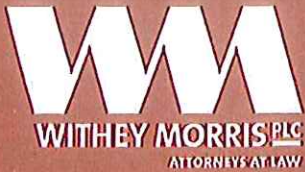
Part 3, Chapter 2, Section 3-302, Table 3-202A – Permitted Land Uses in Office/Industrial Districts
Part 6, Chapter 3, Section 6-308 – Use Permit



Location Map



AVEDA INSTITUTE (PL120087)



PHONE: 602-230-0600

FAX: 602-212-1787

2525 E. Arizona Biltmore Circle, Suite A-212, Phoenix, AZ 85016

March 27, 2012

Via Hand-Delivery

Hearing Officer
Planning Division
City of Tempe
21 E 6th St # 208
Tempe, AZ 85281

Re: Use Permit Application for a Vocational School
Aveda Institute of Tempe / 8475 E. Emerald Dr., Tempe

Dear Hearing Officer:

Our firm represents Aveda Institute regarding their application for a Use Permit for the Aveda Institute of Tempe, at 8475 E. Emerald Dr., Tempe (the "Property"). See Exhibit A, Aerial Map. The Property is located in the Emerald Center commercial development and is zoned Regional Commercial Center (RCC). The RCC zoning district is intended to provide regional shopping facilities that include retail sales, services, and entertainment amenities. Table 3-202A, in the Tempe Zoning and Development Code, lists the uses permitted in the RCC zoning district. In particular, the RCC district permits by right "Retail Sales," "Services – Barber/Beauty Salon," and permits "Schools – Vocational" with a use permit.

The Aveda Institute in Tempe will include a retail showroom, beauty salon, and instructional school at this location. See Exhibit B, Building Elevations. The vast majority of the space will be used for retail and beauty salon purposes. These uses are permitted as a matter of right in the RCC district. The classrooms located in the interior, rear portion of the business. The purpose of this letter is to request approval of the use permit for the classroom and school portion of the business as described in this application.

About Aveda and the Proposed Use

Aveda provides retail sales and beauty salon services to the general public. These services are provided by students receiving instruction through the Aveda training program, who perform complete beauty salon services. Aveda also specializes in health, beauty and lifestyle products that are globally recognized. Aveda products are sold in retail locations, salons, and instructional schools worldwide. Ownership

currently operates three Aveda locations in the western United States which offer a retail showroom, beauty salon and instructional school. The three locations are in Denver, Tucson, and Provo. After months of research, this location in Tempe was chosen, and approved by Aveda Corporate, which is owned by Estee Lauder.

Aveda intends to purchase and operate within the approximate western 21,000 SF of building space located at 8475 E. Emerald Drive within the Emerald Center. The retail component of the store will be the emphasis of the use and will utilize much of the exterior, window views of the premises. The proposed store will offer an entire selection of Aveda Salon Products for retail sale. In addition to retail sales, the business will include beauty salon stations, and beauty salon rooms. These services will be performed by students and under supervision by licensed educators. The vocational school component of the use will utilize classroom space in the interior portion of the space. Office, bathroom, and storage uses will take up the remaining square footage. See Exhibit C, Floor Plan. Parking will be provided in accordance with the Tempe Ordinance.

Aveda's Proposed Use Meets the Five Criteria for Granting a Use Permit

- 1. The use will not cause any significant vehicular or pedestrian traffic in adjacent areas.**

The proposed use is an efficient and appropriate use of the existing building and will not result in excess vehicular or pedestrian traffic in the area. The use is in full compliance with the City of Tempe Parking Code requirements. Employees will generally begin arriving at the location at 8:30 AM and leave no later than 10:00 PM, which will not disrupt the existing flow of traffic within the Emerald Center. Students will arrive at staggered times of the day depending on their full-time or part-time status. The student schedules will be compatible with the existing Emerald Center tenants and will not cause any significant vehicular or pedestrian traffic. The influx of new customers to the center will not create detrimental vehicular or pedestrian traffic and will instead, be an additional benefit to the surrounding retail uses.

- 2. The use will not cause any nuisance (odor, dust, gas, noise, vibration, smoke, heat or glare, etc.) exceeding ambient conditions.**

All aspects of the Aveda Institute of Tempe's use will be conducted within the building and will not result in any type of nuisance to the surrounding property owners and tenants.

- 3. The use will not contribute to the deterioration of the neighborhood or be in conflict with the goals, objectives and policies of the City.**

If this vacant space continued to exist indefinitely, it would deteriorate the area and negatively impact other businesses within the Emerald Center. Aveda's intended use will revitalize the southwest portion of the center and bring additional customers to

the surrounding businesses. Aveda's retail and beauty salon centers are renowned for their quality, prestige, and pristine appearance. The Aveda Institute of Tempe will embody all of these principles and contribute to improving the area. Moreover, the intended use is in line with the intent of the RCC zoning district, as well as the goals, objectives and policies of the City of Tempe. The Aveda Institute is exactly the type of use encouraged within the General Plan and is compatible with all of the permitted uses of the RCC zoning district.

4. The use will be compatible with existing surrounding structures.

Aveda intends to use the existing building as it was originally designed within the Emerald Center, and will not make any exterior alterations that would make the use or building incompatible with other existing structures within the center.

5. The use will not result in any disruptive behavior which may create a nuisance to the surrounding area or general public.

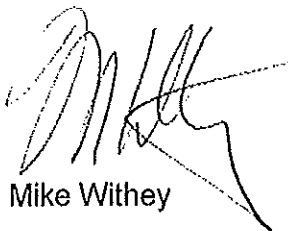
As discussed above, Aveda's use will not have any detrimental impact on the surrounding area and will certainly not create any type of "nuisance". No aspect of the use, or Aveda's employees, students, or customers, would result in any type of disruptive behavior. Aveda's employees are highly trained professionals and the institute's students are selected, in part, based on a demand for students with responsibility, reliability, and the ability to treat others with respect. In fact, the Aveda Institute is frequently referred to as the "Harvard of beauty schools" and is known as one of the most difficult schools to be admitted to in this field of study.

Thank you for your attention to this matter. Please contact me at 602-230-0600 or at m@witheymorris.com if you have any questions or if you need any additional information to process this application.

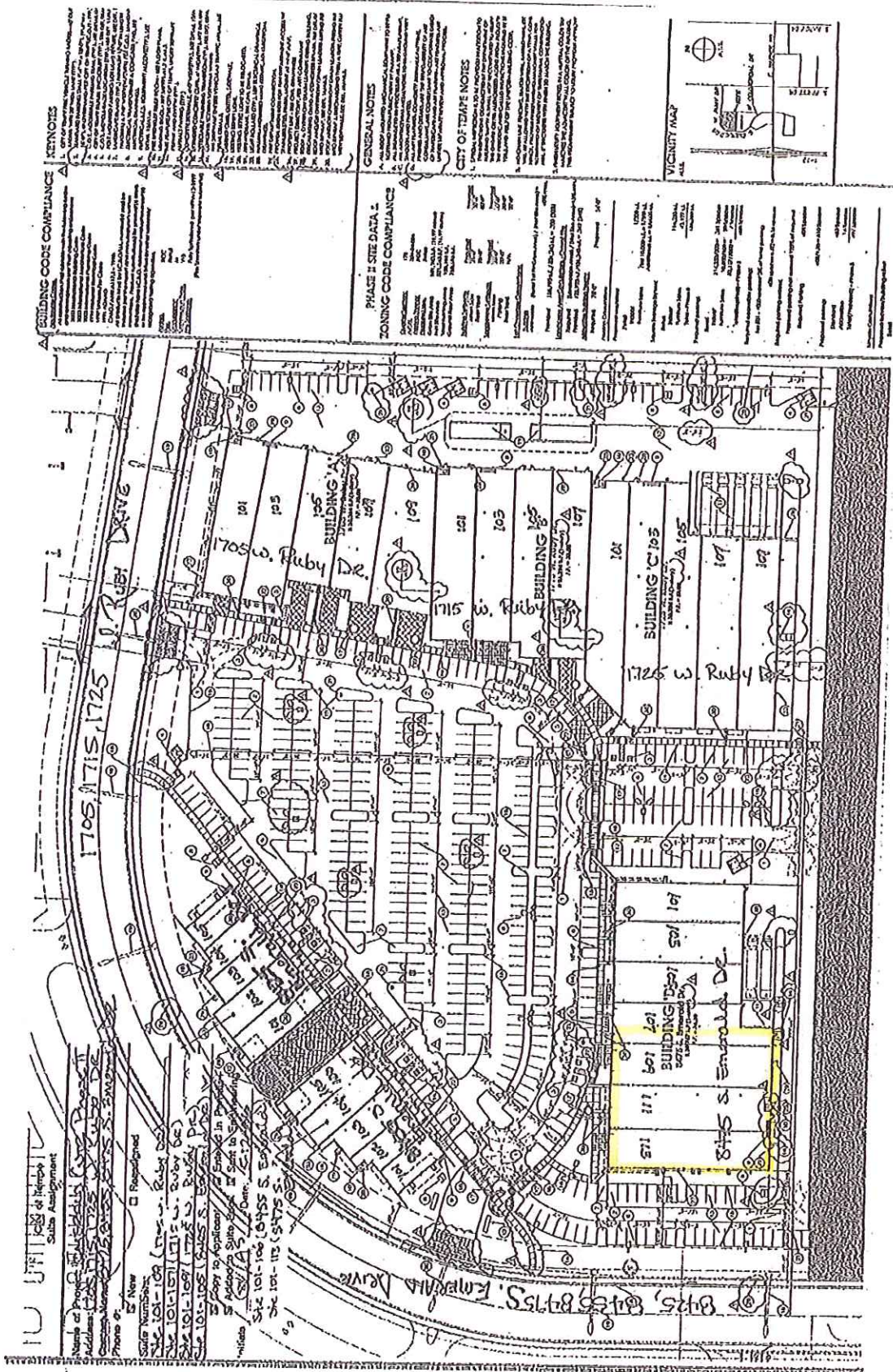
Very truly yours,

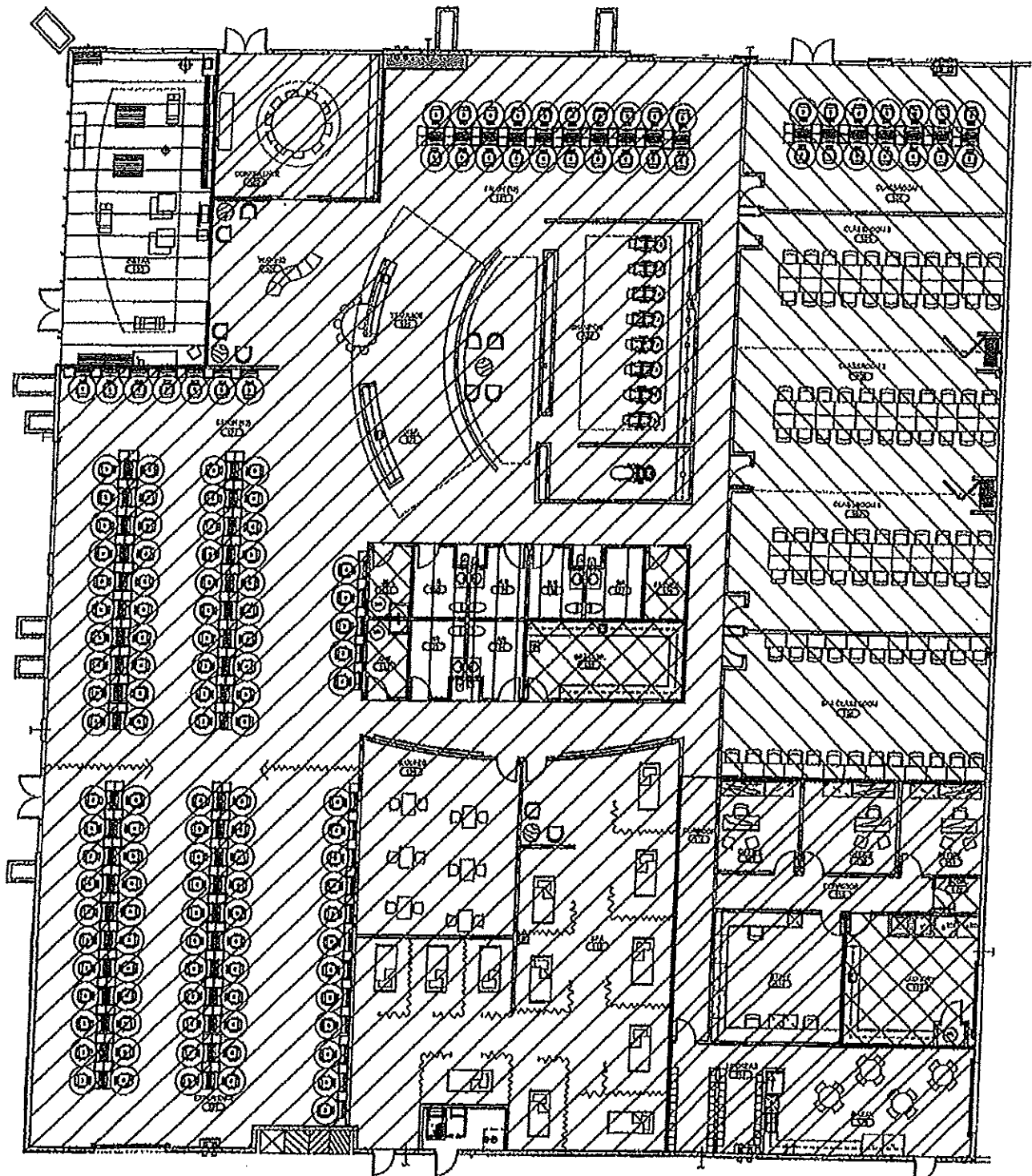
WITHEY MORRIS P.L.C.

By

A handwritten signature in black ink, appearing to read 'Mike Withey', with a large, sweeping flourish extending from the bottom right.

Mike Withey





- | | | | |
|--|--------|--|-----------|
| | RETAIL | | RESTROOM |
| | SALON | | STORAGE |
| | OFFICE | | CLASSROOM |

Aveda Building Elevations

Facing Southeast



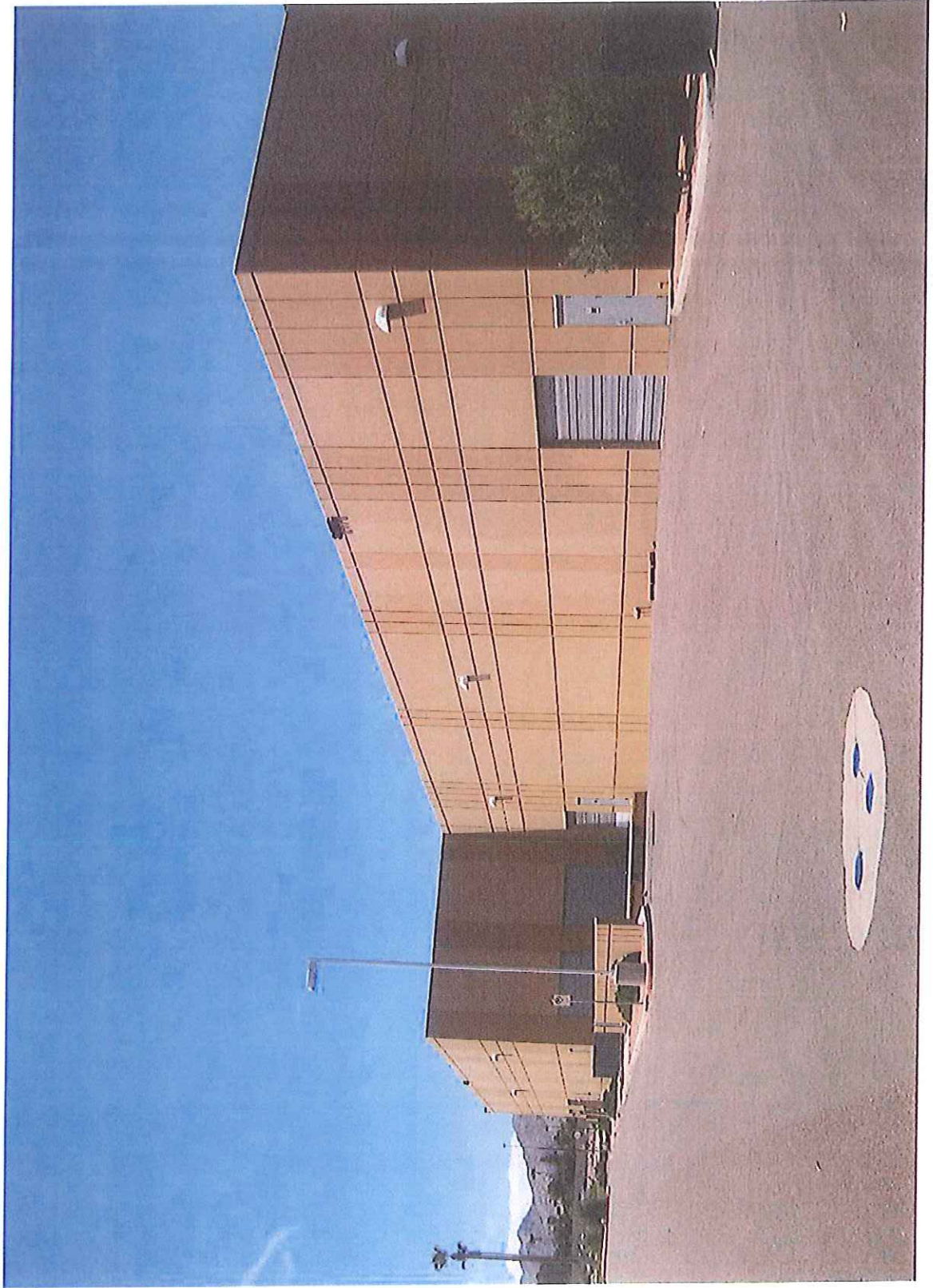
Aveda Building Elevations

Facing Southwest



Aveda Building Elevations

Facing Northwest





April 12, 2012

Dear Property Owner/Tenant:

This letter concerns the Aveda Institute of Tempe, at 8475 E. Emerald Dr., Tempe (the "Property"). The Property is located in the western 21,000 square feet of Building D of the Emerald Design Center II and is zoned Regional Commercial Center (RCC). See Attached Aerial Map. The RCC zoning district is intended to provide regional shopping facilities that include retail sales, services, and entertainment amenities. The vast majority of the Aveda Institute is for "retail sales" and a "beauty salon" which are permitted by right. The "schools" portion of the space requires a use permit. Accordingly, an application for a use permit for that portion of the space was recently filed with the City of Tempe (Case No. 120079). The purpose of this letter is to let you know who we are and what we intend to build and operate.

Aveda provides retail sales and beauty salon services to the general public. The Aveda Institute in Tempe will include a retail showroom positioned at the front of the store, a beauty salon, and an instructional school at this location. The vast majority of the space will be used for retail and beauty salon purposes. The classrooms will be located in the interior, rear portion of the business. Aveda also specializes in health, beauty and lifestyle products that are globally recognized. Aveda products are sold in retail locations, salons, and instructional schools worldwide. Ownership currently operates three Aveda locations in the western United States which offer a retail showroom, beauty salon and instructional school. The three locations are in Denver, Tucson, and Provo. Please visit our website at www.beautyschoolsinspire.com. After months of research, this location in Tempe was chosen, and approved by Aveda Corporate, which is owned by Estée Lauder.

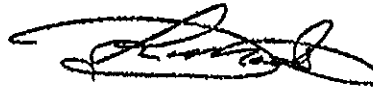
The retail component of the store will be the emphasis of the use and will utilize much of the exterior, window views of the premises. The proposed store will offer an entire selection of Aveda Salon Products for retail sale. In addition to retail sales, the business will include beauty salon stations, and beauty salon rooms. These services will be performed by students under supervision by licensed educators. The vocational school component of the use will utilize

classroom space in the interior portion of the space. Aveda's employees are highly trained professionals and the institute's students are selected, in part, based on a demand for students with responsibility, reliability, and the ability to treat others with respect. In fact, the Aveda Institute is known as one of the most difficult schools to be admitted to in this field of study.

In summary, the proposed use is an efficient and appropriate use of the existing vacant building. Our customers and students will benefit the Center and the surrounding retail uses and bring additional customers to the area.

A hearing for the proposed use permit for the school portion of the use only has been scheduled before the Tempe Hearing Officer on May 1st, 2012, 1:30 PM, at Tempe City Council Chambers, 31 E. 5th Street, Tempe 85281. If you have any questions, or you would like to speak or meet with us separately, please feel free to contact me at (303) 995-5958.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Dale LeMonds', with a stylized flourish at the end.

By
Dale LeMonds